

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO et
al.,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

PUERTO RICO ELECTRIC POWER
AUTHORITY,

Debtors.

PROMESA

Title III

No. 17 BK 4780-LTS

MEDIATION TEAM'S FIFTH NOTICE AND REPORT

To the Honorable United States District Judge Laura Taylor Swain:

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico ("Commonwealth") (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

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PLEASE TAKE NOTICE that, on April 8, 2022, the Court entered an order (the “Appointment Order”)² appointing a Mediation Team comprising the Honorable Shelley C. Chapman as lead mediator, the Honorable Robert D. Drain, and the Honorable Brendan L. Shannon (collectively, the “Mediation Team”) to facilitate confidential negotiations among the Mediation Parties (and any other Mediation Party added in the Mediation Team’s discretion) regarding the Mediation Topics (the “Mediation”). On the same date, the Court entered its *Order Establishing the Terms and Conditions of Mediation* (the “Terms and Conditions Order”).

PLEASE TAKE FURTHER NOTICE that, on December 30, 2022, the Court entered its *Notice and Order Regarding Mediation Team* stating that, due to the retirement of the Honorable Robert D. Drain from judicial service on December 31, 2022, “effective December 31, 2022, and until further notice (including, without limitation, notice of reappointment of Judge Drain to the Mediation Team in a private capacity), the Mediation Team will consist of Hon. Shelley C. Chapman (ret.) and Hon. Brendan Linehan Shannon.”³

PLEASE TAKE FURTHER NOTICE that, on March 3, 2023, the Court approved the *Disclosure Statement for the Modified Second Amended Title III Plan of Adjustment of the Puerto Rico Electric Power Authority*, dated March 1, 2023, and scheduled the hearing to consider confirmation of the *Modified Second Amended Title III Plan of Adjustment of the Puerto Rico Electric Power Authority*, dated March 1, 2023 (the “Plan”), for July 17–21, 24, 26–28, 2023.⁴

² Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Appointment Order.

³ Case No. 17-3283, Docket No. 23187; Case No. 17-4780, Docket No. 3137. Hereinafter, the term “Mediation Team” shall refer to the Hon. Shelley C. Chapman (ret.) and the Hon. Brendan Linehan Shannon.

⁴ Case No. 17-3283, Docket No. 23675; Case No. 17-4780, Docket No. 3304.

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PLEASE TAKE FURTHER NOTICE that, on March 22, 2023, the Court entered the *Opinion and Order Granting in Part and Denying in Part the Financial Oversight and Management Board for Puerto Rico's Motion for Summary Judgment and the Defendant's and Intervenor-defendants' Cross-motion for Summary Judgment* (the "Lien Challenge Order"),⁵ among other things, directing certain parties to commence working with the Mediation Team to consensually resolve outstanding disputes regarding the Plan.

PLEASE TAKE FURTHER NOTICE that the termination date of the Mediation (the "Termination Date") has been extended by the Court multiple times. Pursuant to the Court's *Order Concerning Mediation Team's Fourth Notice and Report*, dated April 24, 2023 (the "April 24 Order"),⁶ the Court extended the Termination Date through and including July 28, 2023. The April 24 Order also directed the Mediation Team to file monthly status report, beginning on May 3, 2023, concerning "whether there has been genuine engagement in the Mediation process, including the number of completed scheduled mediation session that occurred during the preceding month and how many are at that point scheduled for the current month."⁷

STATEMENT OF MEDIATION TEAM

1. The Mediation Team respectfully submits this Fifth Notice and Report as a status report in accordance with paragraph 4 of the April 24 Order.
2. Despite significant efforts by the Mediation Team, no mediation sessions have occurred since the filing of the Fourth Notice and Report, and no mediation sessions have been scheduled for the month of May. On April 19, 2023, the Mediation Team made a proposal to

⁵ Adv. Pro. No. 19-00391, Docket No. 147.

⁶ Case No. 17-3283, Docket No. 24061; Case No. 17-4780, Docket No. 3404.

⁷ April 24 Order, ¶ 4.

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certain Mediation Parties regarding the terms on which mediation sessions should resume. The Mediation Team's proposal was acceptable to some, but not all, of the Mediation Parties to whom the request was directed. Subsequent attempts to determine a basis on which mediation could proceed have not been successful. The Mediation Team will continue to attempt to comply with the Court's directive that mediation resume.

3. The Mediation Team is available to answer any questions the Court may have.

Dated: May 3, 2023

/s/ Shelley C. Chapman
SHELLEY C. CHAPMAN
Willkie Farr & Gallagher LLP

/s/ Brendan L. Shannon
BRENDAN L. SHANNON
United States Bankruptcy Judge